

Immunize people — not corporate wrongdoing

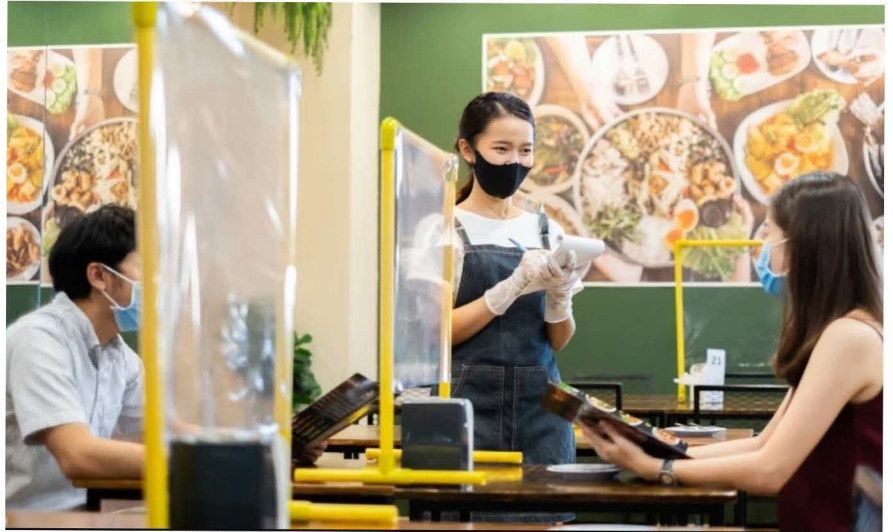
Calls for protecting companies against COVID lawsuits are based on a false choice between the return to a healthy economy or allowing businesses to be held accountable if their carelessness causes harm.

Todd A. Smith

Efforts to find an effective COVID-19 vaccine to protect the public are well underway, and some show great promise. Meanwhile, our only recourse is protection of another kind: face coverings, hand sanitizer, social distancing and quarantine.

But even as vaccines are being tested and readied for widespread use, Congress is considering another type of immunity: one that will immunize employers from COVID-related lawsuits.

A Republican-sponsored bill would extend unemployment benefits to the tens of millions of jobless workers due to the pandemic—if Congress agrees to give employers immunity from liability.



In other words, if a returning worker becomes ill because an employer failed to follow proper safety precautions, that employee's legal recourse would for all practical purposes be eliminated.

We can't let this happen.

Organizations that lobby for companies such as the U.S. Chamber—which is funded by the same companies—are among those behind the move to have Congress relieve them of responsibility for protecting workers and consumers. Their calls for immunity are based on a false choice between the return to a healthy economy or allowing businesses to be held accountable if their carelessness causes people to get sick or worse.

One concern is that lawsuits may lead to a tremendous number of bankruptcies, but this is a thinly veiled attempt to weaken the law and shows unwarranted disrespect for state law and state-law remedies. State law—not federal law—provides the tools by which injured individuals sue for harm, yet companies are asking Congress to override the laws of every state.

The potential for businesses to be held liable for violating state-law duties of care has existed since the beginning of our republic. Yet in this instance, neither workers nor consumers seem to be flocking to courts to sue for exposure to the coronavirus at their workplace.

Further, lawsuits for exposure while in an office, store or restaurant are likely to be very difficult to prove under already existing law since an individual would have to establish that he or she became sick because of exposure at a specific location and at a specific time.

But it's a different circumstance if a consumer can prove that a business failed to take established, well-known safety precautions that caused the illness or death. For example, a nursing home that didn't follow basic, commonsense recommendations by its state health department or a company that encouraged or insisted employees come to work after a COVID outbreak at their headquarters should not be immune from liability when their own careless conduct caused the harm is just plain wrong.

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